UNITED NATIONS

GENERAL ASSEMBLY

Distr.
GENERAL

A/CN.9/427
17 April 1996

ORIGINAL: ENGLISH

UNITED NATIONS COMMISSION ON
INTERNATIONAL TRADE LAW
Twenty-ninth session
New York, 28 May - 14 June 1996

TRAINING AND TECHNICAL ASSISTANCE

Note by the Secretariat

CONTENTS

		Paragraphs	Page
INTRODUCTION		1-2	2
I.	TRENDS IN TRAINING AND TECHNICAL ASSISTANCE	3-4	2
II.	TECHNICAL ASSISTANCE TO STATES IN PREPARATION AND IMPLEMENTATION OF LEGISLATION	5-7	3
III.	UNCITRAL SEMINARS AND BRIEFING MISSIONS	8-11	3
IV.	OTHER SEMINARS, CONFERENCES, COURSES AND WORKSHOPS	12-13	5
V.	INTERNSHIP PROGRAMME	14-15	8
VI.	FUTURE ACTIVITIES	16-17	8
VII.	FINANCING PROGRAMME IMPLEMENTATION	18-21	9

V.96-82446

INTRODUCTION

1. Pursuant to the decision taken at the twentieth session of the Commission (1987), training and assistance activities count among the high priorities of UNCITRAL.1/ The training and technical assistance programme carried out by the Secretariat under the mandate given by the Commission, particularly in developing countries and in countries whose economic systems are in transition, encompasses two main lines of activity: (a) information activities aimed at promoting the knowledge of international commercial law conventions, model laws and other legal texts; and (b) assisting Member States in their efforts towards commercial law reform and towards the adoption of UNCITRAL texts.

2. This note sets out activities of the Secretariat subsequent to the twenty-eighth session of the Commission (2-26 May 1995) and discusses possible future training and technical assistance activities, in the light of the trends in the demand for such services from the Secretariat.

I. TRENDS IN TRAINING AND TECHNICAL ASSISTANCE

3. There is a continuing and significant increase in the importance being attributed by Governments, by domestic and international business communities and by multilateral and bilateral aid agencies to improvement of the legal framework for international trade and investment. UNCITRAL has an important function to play in this process because it has produced and promotes use of legal instruments in a number of key areas of commercial law which represent internationally agreed standards and solutions acceptable to different legal systems. Those instruments include:

(a) in the area of sales, the United Nations Convention on Contracts for the International Sale of Goods and the United Nations Convention on the Limitation Period in the International Sale of Goods;

(b) in the area of dispute resolution, the UNCITRAL Arbitration Rules, the UNCITRAL Conciliation Rules and the UNCITRAL Model Law on International Commercial Arbitration;

(c) in the area of procurement, the UNCITRAL Model Law on Procurement of Goods, Construction and Services;

(d) in the area of banking and payments, the United Nations Convention on Independent Guarantees and Stand-by Letters of Credit, the UNCITRAL Model Law on International Credit Transfers and the United Nations Convention on International Bills of Exchange and International Promissory Notes;

1/ Report of the United Nations Commission on International Trade Law on the work of its twentieth session, Official Records of the General Assembly, Forty-second Session, Supplement No. 17 (A/42/17), para. 335.

(e) in the area of transport, the United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg Rules) and the United Nations Convention on the Liability of Operators of Transport Terminals in International Trade.

4. The upsurge in commercial law reform represents a significant and crucial opportunity for UNCITRAL to significantly further the objectives of substantial co-ordination, systematization and acceleration of the process of harmonization and unification of international trade law, as envisaged by General Assembly resolution 2205 (XXI) of 17 December 1966.

II. TECHNICAL ASSISTANCE TO STATES IN PREPARATION AND IMPLEMENTATION OF LEGISLATION

5. Technical assistance is provided to States preparing legislation based on UNCITRAL legal texts, particularly in areas such as international commercial arbitration, procurement and international credit transfers. Such assistance is provided in various forms, including review of preparatory drafts of legislation from the viewpoint of UNCITRAL legal texts, technical consultancy services and assistance in the preparation of legislation based on UNCITRAL legal texts, preparation of regulations implementing such legislation (e.g., procurement regulations), comments on reports of law reform commissions, as well as briefings for legislators, judges, arbitrators, procurement officials and other users of UNCITRAL legal texts embodied in national legislation. Another form of technical assistance provided by the Secretariat consists in advising on the establishment of institutional arrangements for international commercial arbitration, including training seminars for arbitrators, judges and practitioners in this area.

6. With a view to maximizing the benefit that recipient countries derive from UNCITRAL technical assistance, the Secretariat has taken steps towards increasing cooperation and coordination with development assistance agencies. Cooperation and coordination among entities providing legal technical assistance has the desirable effect of ensuring that, when United Nations system entities, or outside entities, are involved in providing legal technical assistance, the legal texts formulated by the Commission and recommended by the General Assembly to be considered are in fact so considered and used.

7. From the standpoint of recipient States, UNCITRAL technical assistance is beneficial in view of the Secretariat's accumulated experience in the preparation of the UNCITRAL legal texts and in providing technical assistance to Governments in the preparation of legislation. It also helps establish legal systems that not only are internally consistent, but also utilize internationally developed trade law conventions, model laws, and other legal texts. The resulting legal harmonization maximizes the ability of business parties from different States to successfully plan and implement commercial transactions.

III. UNCITRAL SEMINARS AND BRIEFING MISSIONS

8. The information activities of UNCITRAL are typically carried out through seminars and briefing missions for Government officials from interested ministries (such as trade, foreign affairs, justice and transport), judges, arbitrators, practising lawyers, the commercial and trading community, scholars and other interested individuals. Seminars and briefing missions are designed to explain the salient features

and utility of international trade law instruments of UNCITRAL. Information is also provided on certain important legal texts of other organizations (e.g., Uniform Customs and Practice for Documentary Credits and INCOTERMS (International Chamber of Commerce); Factoring Convention (International Institute for the Unification of Private Law (UNIDROIT)). Typically, all briefing missions, as well as one-day seminars, are carried out by only one member of the Secretariat.

9. Since the previous session, the Secretariat organized seminars in a number of States. Lectures at UNCITRAL seminars are generally given by one or two members of the Secretariat, by experts from the host countries and occasionally by external consultants. After the seminars, the UNCITRAL Secretariat remains in close contact with seminar participants in order to provide the host countries with the maximum possible support during the process relating to the adoption and use of UNCITRAL legal texts.

10. The following seminars and briefing missions were financed with resources from the Trust Fund for UNCITRAL Symposia:

- Minsk, Belarus (29-30 May 1995), held in cooperation with the International Court of Arbitration at the Belarussian Chamber of Commerce and Industry, and attended by approximately 50 participants;

- Teheran, Islamic Republic of Iran (9-12 September 1995), held in cooperation with the Ministry of Foreign Affairs, and attended by approximately 150 participants;

- Almaty, Kazakstan (22-26 August 1995), briefing mission held in cooperation with the Ministry of Foreign Affairs;

- Bogota, Colombia (10 November 1995), briefing mission held in cooperation with the Ministry of Justice;

- Asunción, Paraguay (22-24 November 1995), held in cooperation with the Ministry of Foreign Affairs, and attended by approximately 70 participants;

- Santiago, Chile (27-29 November 1995), held in cooperation with the University of Chile, and attended by approximately 40 participants;

- Conakry, Guinea (15-19 January 1996), held in cooperation with the Ministry of Foreign Affairs and attended by approximately 150 participants;

- Libreville, Gabon (22-25 January 1996), held in cooperation with the Ministry of Industry and Foreign Trade, and attended by approximately 30 participants;

11. The following seminars and briefing missions were financed by the institution organizing the event or by another organization:

- Abu Dhabi, United Arab Emirates (27 June 1995), held in cooperation with UNDP, the Federation of U.A.E. Chambers of Commerce and Industry and the Abu Dhabi Chamber of Commerce, and attended by approximately 50 participants ;

- Dubai, United Arab Emirates (4 July 1995), held in cooperation with UNDP and the Municipality of Dubai, and attended by approximately 50 participants;

- Auckland, Wellington, New Zealand (5 and 14 July 1995), held in cooperation with the Office of the Attorney-General, and attended by approximately 40 participants in Auckland and 70 in Wellington;

- Athens, Greece (18-19 October 1995), held in cooperation with the Athens Chamber of Commerce, and attended by approximately 250 participants ;

- Ljubljana, Slovenia (31 January 1996), held in cooperation with the GEA College, and attended by approximately 50 participants .

IV. OTHER SEMINARS, CONFERENCES, COURSES AND WORKSHOPS

12. Members of the UNCITRAL Secretariat have participated as speakers in various seminars, conferences and courses where UNCITRAL legal texts were presented for examination and discussion, or for the purposes of coordination of activities. The participation of members of the Secretariat in the seminars, conferences and courses listed below was financed by the institution organizing the events or by another organization:

- Central European University post-graduate Programme on International Commercial Law (Budapest, Hungary, 21 April 1995);

- Development Lawyers' Course sponsored by the International Development Law Institute (IDLI) (Rome, Italy, 2 - 4 May 1995);

- Training Workshop on Interbank Relations and Foreign Bank Agreements sponsored by the International Development Law Institute (IDLI) (Vilnius, Lithuania, 31 May - 1 June 1995);

- International Entry Course on Arbitration and Special Fellowship Course sponsored by the Chartered Institute of Arbitrators (Cairo, Egypt, 12 - 17 June 1995);

- International Arbitration Workshop sponsored by the Institute of Transnational Arbitration (Dallas, Texas, United States, 21 -23 June 1995);

- International Entry Course on Arbitration sponsored by the Chartered Institute of Arbitrators (Bermuda, 26 - 28 June 1995);

- Post Fellowship Arbitration Practice Weekend sponsored by the Chartered Institute of Arbitrators (Kent, United Kingdom, 1- 2 July 1995);

- Conference on Trade Law Harmonization in the Pacific Rim Countries sponsored by the Pacific Economic Cooperation Council (PECC) (Auckland, Wellington, New Zealand, 5 - 7 July 1995);

- International Trade Law Post-Graduate Course (Equipment Procurement Management in the Public Sector) sponsored by the International Training Centre of the International Labour Organization (ILO) and the University Institute of European Studies (Turin, Italy, 18 - 19 July 1995);

- Annual Conference of the New Zealand Institute of Arbitrators (Christchurch, New Zealand, 21 - 23 July 1995);

- International Trade Law Post-Graduate Course sponsored by the International Training Centre of the International Labour Organization (ILO) and the University Institute of European Studies (Turin, Italy, 3 August 1995);

- "Doing Business Securely on the Information Highway" Conference sponsored by the EDI World Institute (Montreal, Canada, 30 - 31 August 1995);

- Procurement Conference sponsored by the Cairo Regional Centre for International Commercial Arbitration (Cairo, Egypt, 9 - 10 September 1995);

- International Fellowship Course sponsored by the Chartered Institute of Arbitrators (Paris, France, 15 - 17 September 1995);

- International Chamber of Commerce (ICC) Seminar on Demand Guarantees, Standby Credits and Performance Bonds (London, United Kingdom, 3 October 1995);

- "Emerging Financial Markets and Secured Transactions" Conference sponsored by the European Bank for Reconstruction and Development (EBRD) (London,United Kingdom, 5 - 6 October 1995);

- U.S. Working Group on Standby Practices sponsored by the Institute of International Banking Law and Practice (New York, N.Y., United States, 12 - 13 October 1995);

- Conference on "Recent Developments in Trade Law" sponsored by the French/Arab Chamber of Commerce (Sousse, Tunisia, 12 - 15 October 1995);

- Conference on "Application of the United Nations Convention on Contracts for the International Sale of Goods" sponsored by Centre Juridique Franco-Allemand, Université de la Sarre (Paris, France, 13 - 14 October 1995);

- "Worldwide Electronic Commerce" Conference sponsored by the American Bar Association (Bethesda, Maryland, United States, 18 - 20 October 1995);

- International Council for Commercial Arbitration (ICCA) Meeting - Planning Future Conferences (Paris, France, 20 October 1995);

- International Association of Insolvency Practitioners (INSOL) Regional Conference (Hong Kong, 1 - 5 November 1995);

- XXXII Inter-American Bar Association (IABA) Conference (Quito, Ecuador, 12 - 17 November 1995);

- Arbitration Seminar sponsored by the German Institute for Arbitration (Berlin, Germany, 14 - 15 November 1995);

- Arbitration Conference of the Iberoamerican Association of Chambers of Commerce (AICO) (Asunción, Paraguay, 20 - 21 November 1995);

- Arbitration Diploma Course sponsored by the Chartered Institute of Arbitrators (London, United Kingdom, 27 - 28 November 1995);

- U.S. Working Group on Standby Practices sponsored by the Institute of International Banking Law and Practice (Miami, Florida, United States, 30 November - 3 December 1995);

- International Entry and Special Fellowship Course on Arbitration sponsored by the Chartered Institute of Arbitrators (Harare and Bulawayo, Zimbabwe, 16 - 23 December 1995);

- U.S. Working Group on Standby Practices sponsored by the Institute of International Banking Law and Practice (New York, N.Y., United States, 29 - 31 January 1996);

- Arbitration Conference sponsored by the Swiss Arbitration Association (Zurich, Switzerland, 1 - 2 February 1996);

- Insolvency Lawyers' Annual Conference (Stratford-on-Avon, United Kingdom, 8 - 10 March 1996);

- Seminar "International Interests in Mobile Equipment: UNIDROIT Draft Convention" and "Assignment in Receivables Financing" sponsored by the Department of Trade and Industry, Business Law Unit (London, United Kingdom, 12 March 1996);

- Annual Survey Conference on Letter-of-Credit Law sponsored by the Institute of International Banking Law and Practice (New York, N.Y. United States, 14 March 1996);

- U.S. Study Group on Standby Practices sponsored by the Institute of International Banking Law and Practice (New York, N.Y., United States, 18 - 19 March 1996);

- Tilburg Lectures: The Unification of International Commercial Law through EC Directives and International Conventions organized by Tilburg University, Schoordijk Instituut, Tilburg, Netherlands, 2 - 4 April 1996).

13. The participation of members of the UNCITRAL Secretariat as speakers in the conferences listed below was financed with resources from the Trust Fund for UNCITRAL Symposia and from the United Nations regular travel budget:

- "Dispute Resolution in Emerging Economies of Asia" Conference sponsored by the Inter-Pacific Bar Association and the Viet Nam International Arbitration Centre (Ho Chi Minh City, Viet Nam, 14 - 16 January 1996);

- 25th Annual Conference of the International Bar Association (Paris, France, 18 - 22 September 1995).

V. INTERNSHIP PROGRAMME

14. The internship programme is designed to give young lawyers the opportunity to become familiar with the work of UNCITRAL and to increase their knowledge of specific areas in the field of international trade law. During the past year the Secretariat received 11 interns, originating from Belgium, Brazil, Denmark, Egypt, France, Germany, India, Italy, Poland and Spain. Interns are assigned tasks such as basic or advanced research, collection and systematization of information and materials, or helping prepare background papers. The experience of UNCITRAL with the internship programme has been positive. As no funds are available to the Secretariat to assist interns to cover their travel or other expenses, interns are often sponsored by an organization, university or a Government agency, or they meet their expenses from their own means. The Commission may wish, in this connection, to invite Member States, universities and other organizations, in addition to those that already do so, to consider sponsoring the participation of young lawyers in the United Nations internship programme for work with UNCITRAL.

15. In addition, the Secretariat occasionally accommodates requests by scholars and legal practitioners who wish to conduct research in the Branch and in the UNCITRAL Law Library for a limited period of time.

VI. FUTURE ACTIVITIES

16. For the remainder of 1996, seminars and legal-assistance briefing missions are being planned in Africa, Asia, the Caribbean, Eastern Europe and Latin America. Since the costs of training and technical assistance activities is not covered by the regular budget, the ability of the Secretariat to implement these plans is contingent upon the receipt of sufficient funds in the form of contributions to the Trust Fund for UNCITRAL Symposia.

17. As it has done in recent years, the Secretariat has agreed to co-sponsor the next three-month International Trade Law Post-Graduate Course to be organized by the University Institute of European Studies and the International Training Centre of the International Labour Organization in Turin. Typically, approximately half of the participants are drawn from Italy, with many of the remainder being from developing countries. This year's contribution from the UNCITRAL Secretariat will focus on issues of harmonization of laws on international trade law from the perspective of UNCITRAL, including past and current work.

VII. FINANCING PROGRAMME IMPLEMENTATION

18. The Secretariat continues in its efforts to devise a more extensive training and technical assistance programme, to meet the considerably greater demand from States for training and assistance, and in response to the call of the Commission at the twentieth session (1987) for an increased emphasis both on training and assistance and on the promotion of the legal texts prepared by the Commission. However, as no funds for the travel expenses of lecturers or participants are provided for in the regular budget, expenses for UNCITRAL training and technical assistance activities (except for those that are funded by funding agencies such as the World Bank) have to be met by voluntary contributions to the Trust Fund for UNCITRAL Symposia.

19. Given the importance of extra-budgetary funding for the implementation of the training and technical assistance component of the UNCITRAL work programme, the Commission may again wish to appeal to all States, international organizations and other interested entities to consider making contributions to the Trust Fund for UNCITRAL Symposia, particularly in the form of multi-year contributions, so as to facilitate planning and enable the Secretariat to meet the increasing demands in developing countries and newly independent States for training and assistance. The Secretariat can be contacted for information on how to make contributions to UNCITRAL Trust Funds.

20. In the relevant period, contributions from Cambodia, France, the Philippines and Switzerland were made for the seminar programme. The Commission may wish to express its appreciation to those States and organizations that have contributed to the Commission's programme of training and assistance by providing funds or staff or by hosting seminars.

21. It is noted that, in its previous session, the Commission decided to request that the Trust Fund for UNCITRAL Symposia be placed on the agenda of the pledging conference taking place within the framework of the General Assembly session, on the understanding that that would not have any effect on the obligation of a State to pay its assessed contribution to the Organization (A/50/17, para. 422). However, since the General Assembly did not have the opportunity to consider that matter during its last session, the Commission may wish to reiterate its decision and request that the Sixth Committee recommend to the General Assembly the adoption of a resolution including the Trust Fund for UNCITRAL Symposia and the Trust Fund for Granting Travel Assistance to Developing States Members of UNCITRAL on the agenda of the United Nations Pledging Conference for Development Activities.

* * *